

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-1399

CARMELL WASHINGTON,

Plaintiff - Appellant,

versus

MACK TRUCKS, INCORPORATED,

Defendant - Appellee,

and

UNITED AUTO WORKERS; INTERNATIONAL UNION,
UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL;
UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL
IMPLEMENT WORKERS,

Defendants.

Appeal from the United States District Court for the District of
South Carolina, at Columbia. Matthew J. Perry, Jr., Senior
District Judge. (CA-00-3312-10BC)

Submitted: July 29, 2004

Decided: August 3, 2004

Before LUTTIG, MICHAEL, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Carmell Washington, Appellant Pro Se. Henry Scarborough Knight, Jr., CONSTANGY, BROOKS & SMITH, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Carmell Washington appeals from the district court's order adopting the recommendation of the magistrate judge and granting summary judgment in favor of Mack Truck, Inc. ("Mack"), and its orders denying Washington's motions to amend his complaint, for a continuance, and to admit affidavits. Washington alleged that his employment with Mack was terminated because of his race in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-2000e-17 (2000), and in retaliation for filing charges of discrimination against Mack. Our review of the record and the district court's opinions disclose that this appeal is without merit.

We find no abuse of discretion in the district court's denial of Washington's motion to amend his complaint, given that Washington previously had filed three complaints and further amendment would have prejudiced Mack through undue delay. See Foman v. Davis, 371 U.S. 178, 182 (1962); Franks v. Ross, 313 F.3d 184, 192 (4th Cir. 2002). Nor do we find abuse of discretion in the district court's denial of Washington's request to admit affidavits into the record, considering the court previously had granted Washington two extensions of time to file affidavits to counter summary judgment, and his request was made after the magistrate judge had rendered his recommendation for disposition of the case. We likewise find no abuse of discretion in the district

court's refusal to grant Washington a continuance of his case, given the posture of the case at the time he made his request.

Washington also asserts error in the district court's adverse grant of summary judgment. However, Washington failed to timely file objections to the magistrate judge's recommendation, despite being given notice that the failure to do so could waive appellate review of a district court order based upon the recommendation. See Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). Washington has waived appellate review of the district court's adverse grant of summary judgment by failing to file objections after receiving proper notice.

Accordingly, we affirm the district court's orders denying Washington's motions to amend his complaint, to file affidavits, and for a continuance, and further affirm the district court's order granting Mack's summary judgment motion. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED